

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9598 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

PATEL ISHWARBHAI DUNGARDAS

Versus

DISTRICT PRIMARY EDUCATION OFFICER

Appearance:

MR KB PUJARA for Petitioner

MR HS MUNSHAW for Respondent No. 1

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 17/12/1999

ORAL JUDGEMENT

Petitioner is a Primary School Teacher. Since 1.8.96 he was serving at village Sevalia, Taluka Visnagar. On 20.11.99 he was transferred from Village Sevalia to Savla. The petitioner's grievance is that he is a heart patient and in the last leg of the journey of his service career, as he is due to attain the age of superannuation in 2001 and would retire at the end of the session in 2001. Petitioner submits that he has been

transferred contrary to the policy that the persons who are within five years of retirement should not be transferred. Mr. H.S.Munshaw has appeared in response to the rule issued by this Court and has submitted that the petitioner has been transferred to a nearby place which is only 12 Kms. away from village Sevalia. Mr.Munshaw has submitted that it is correct that Sevalia is his native place but Savla is only 12 Kms.away from Sevalia and he has been transferred because there is a surplus staff at the Primary School, Sevalia. Mr. Munshaw has submitted that this transfer has been ordered as there was surplus staff at Sevalia School and, therefore, according to the policy of the Department, the petitioner was to be shifted because he was the person with shortest stay at Sevalia i.e. in terms of the station seniority, he was the junior most. It has also been submitted that it is a transfer in the same Taluka. Mr. Munshaw has submitted that looking to the fact that petitioner is a heart patient, the respondent would still consider to keep the petitioner at any place still more nearer to the village Sevalia and order in this regard shall be issued at the earliest but in no case later than 31.12.99.

In view of the statement made by Mr. Munshaw, as aforesaid, under telephonic instructions from District Primary Education Officer Shri B.K.Patel at Mehsana, no further orders are required to be passed in this matter. This Special Civil Application accordingly stands disposed of. Rule is hereby discharged. No order as to costs.